

MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT DIVISION OF CREDIT UNIONS NEWSLETTER

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PROPOSED RULE

A proposed rule setting forth the frequency of credit union examinations and the factors the Director may consider when determining the frequency was published in the October 1, 2002 Missouri Register. Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Credit Unions, John P. Smith, Director, P.O. Box 1607, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

4 CSR 100-2.005 Frequency of Credit Union Examinations

- 1) The director of the division of credit unions, or the director's agents, may examine a credit union at any time and shall have free access to all books, papers, securities, and other sources of information pertaining to the credit union.
- 2) Qualifying credit unions, as determined by the director, shall be examined no less frequently than every eighteen months. All other credit unions shall be examined annually.
- 3) determining whether or not a credit union may qualify for examinations less frequently than annually, may include, but shall not be limited to:
 - (A) The credit union has been in operation for 10 years;
 - (B) The credit union has not been operating under a Net Worth Restoration Plan or Letter of Understanding and Agreement within the preceding twelve (12) months;
 - (C) The credit union has not been operating under an administrative order within the preceding twelve (12) months;
 - (D) The credit union has not experienced major and potentially adverse changes in its balance sheet structure within the preceding twelve (12) months;
 - (E) The credit union has maintained a positive return on average assets;
 - (F) The credit union has not implemented any new programs with high risk to its balance sheet within the preceding twelve (12) months;
 - (G) The credit union has a net worth ratio of greater than 7 percent;

- (H) The credit union has implemented an adequate asset liability management mechanism;
- (I) The factors the director may consider, when
- (J) The credit union has a history of maintaining accurate and current books and records;
- (K) The tenure and quality of the credit union's management;
- (L) General economic conditions.

AUTHORITY: section 370.120, RSMo as amended by HB 1921 (2002)

SKIP-A-PAYMENT PROMOTIONS

Many credit unions plan 'Skip-A-Payment' loan promotions as the holidays near. Statutes outline several provisions that must occur in such a program:

- The member must agree in writing.
- The first loan payment must be collected.
- No more than one deferral (which may be up to three months) may be permitted within a twelve-month period for any one loan.
- The maximum fee is the lesser of \$50 or 10% of the loan payments deferred.

Examiners have recently noted instances of credit unions charging the member a flat fee regardless of the payment amount. Management must be aware of the requirement for the lesser of the fee or 10% of the loan payment. For example, if a fee of \$15 is charged, loans with payments of less than \$150 must be charged based on 10% of the loan payment. Thus, if the payment is \$130, 10% of the loan payment would be \$13 (less than the \$15 fee).

If you plan a 'skip-a-payment' special, please be aware of the above provisions.

-- Reference RSMo. 408.140 (8)

CALL REPORTS

The Call Report for the September 30, 2002 cycle was mailed to credit unions on September 24, 2002. No later than October 22, 2002 the completed diskette, two hard copies of the call report, and two copies of the before and after closing September 30, 2002 financial statements are to be sent to the examiner assigned to the credit union. Credit unions are strongly encouraged to use the diskette for reporting.

With the September Call Report, all Missouri credit unions are now reporting quarterly. Credit unions with assets of \$10 million or less are to use the 5300EZ Form for the September and March reports. The December and July cycles require the regular call report from all credit unions regardless of size.

CREDIT UNION COMMISSION TO MEET

The Credit Union Commission will meet on October 31, 2002 in Room 493/494, Harry S Truman Building, Jefferson City at 10:30 AM. At the time of the publication of the Newsletter, items on the agenda included:

- Consideration of a group containing greater than 3,000 members for a field of membership expansion of St. Louis Postal Credit Union
- Update on appeals of the Director's decision approving the field of membership expansion for the following credit unions:
 - First Community Credit Union
 - Vantage Credit Union
 - City Utilities Employees Credit Union
 - Telcomm Credit Union
 - Central Communications Credit Union
 - South Community Credit Union
- Condition report, Missouri chartered credit unions
- Changes in Sunshine Law
- State and federal legislative update

Commission meetings are open to the public. The Commission is permitted, but not required, to close its meetings, records and votes when they relate to certain topics.

FIELD OF MEMBERSHIP APPLICATION UPDATE

Springfield Telephone Employees Credit Union (now **Telcomm Credit Union**) submitted an application to include those persons who reside or work in the 417 telephone Area Code and the 573 (bordered on the north by I-70) telephone Area Code. The Director approved the expansion of **Springfield Telephone Employees Credit Union** to those in the 417 Area Code, but not the 573 Area Code. The decision was published in the November 15, 2000 Missouri Register. On November 30, 2000 the Missouri Bankers Association (MBA) and Century Bank of the Ozarks (CBO) filed an appeal of the decision to the Credit Union Commission. The Commission heard the appeal on March 29, 2001. On May 24, 2001 the Commission upheld the decision of the Director. On August 16, 2001, the decision was released and the Director filed **Springfield Telephone Employees Credit Union's** amended bylaws with the Secretary of State. On September 14, 2001, the MBA and CBO filed a petition for administrative review in Cole County Circuit Court. On November 19, 2001, a hearing was held before Judge Tom Brown, Division 1, Circuit Court of Cole County. The motion to refer the case to another division

of the court was granted and the case was referred to Judge Byron Kinder, Division 2. A motion to dismiss the case for lack of standing was heard on January 3, 2002. On January 29, 2002 the court ruled the plaintiffs lack standing to maintain causes of action set forth in their petition and ordered the plaintiffs' petition be dismissed. On March 11, 2002 the MBA and CBO filed an appeal of the decision in the Western Appellate Court of Appeals. Appellant's briefs were due June 3, 2002 with the respondent's briefs due July 3, 2002. The hearing by the Western Appellate Court is scheduled for 9 AM on October 3, 2003 in Kansas City. Disposition of the case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/> case number WD61134.

South Community Credit Union submitted an application for those who work or reside in Zip Codes 63109, 63111, 63116, 63123, 63125, 63128, 63129, and Crawford County, Franklin County, Gasconade County and Washington County. **Central Communications Credit Union** submitted an application for those persons who reside or work in the 816 telephone Area Code. The Director approved the applications submitted by **South Community and Central Communications Credit Unions**. These decisions were published in the November 15, 2000 Missouri Register. On November 30, 2000 the MBA and two local banks located in each of the two applicants' field of membership expansion areas filed appeals of the decisions to the Credit Union Commission. The Commission received the record of appeals from all parties on May 24, 2001. On August 9, 2001 the Commission upheld the decisions of the Director. The written decisions were released on January 25, 2002. On February 21, 2002, the MBA and the local banks filed a petition for administrative review in Cole County Circuit Court. Both cases were assigned to Judge Tom Brown, Division 1. On April 17 the cases were reassigned to Judge Byron L. Kinder, Division 2 and a motion was entered to stay the proceedings until the outcome of the Springfield Telephone Employees case was decided. The cases can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; the case numbers are 02CV323402 and 02CV323401.

Educational Employees Credit Union (now **Vantage Credit Union**) submitted an application for those who live or work in St. Louis County, St. Charles County, Jefferson County, Cape Girardeau County and Franklin County. The application was published in the December 15, 2000 Missouri Register. The Director approved the application and his decision was published in the February 15, 2001 Missouri Register. On March 1, 2001 the MBA and two banks located in the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. The Commission received the record of appeal of **Educational Employees Credit Union** on October 19, 2001 and established briefing schedules. On March 5, 2002, the Commission dismissed the appeal due to lack of standing. On July 18, 2002 the MBA and the two banks filed a Petition in Mandamus in Cole County Circuit Court. The Commission has directed the

attorneys representing them to proceed in their best judgement in addressing the Petition in Mandamus filed by the Missouri Bankers Association and the local bank in the **Educational Employees Credit Union** (now **Vantage Credit Union**) field of membership application while keeping the Commission informed. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 02CV324797.

City Utilities Credit Union submitted an application for community residents and workers in Greene and Christian Counties. The application was published in the June 1, 2001 Missouri Register. The Director approved the application and his decision was published in the August 1, 2001 Missouri Register. On August 14, 2001 the MBA and a local bank located within the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On August 8, 2002 the Commission heard and denied the appeal for lack of standing.

Edison Credit Union submitted an application for active or retired employees of: ACME Signs, Arrowhead Containers, Building Materials Distributors, Columbia Glass and Window Co., Cook Composites and Polymers, Factory Motor Parts, Foley Company, Gallo Fresh Produce, Harvesters Community Food Networks, Highway Trailer Sales, Kansas City Auto Auction, KCI Incorporated, L'il Guys Foods, Midwest Terminal, Midwest Wholesale Hardware, Nakano Foods, Ticket Master of Kansas City, Western Forms, Inc., immediate family members and households of members. The application was published in the July 15, 2002 Missouri Register. The director approved the application and his decision was published in the September 3, 2002 Missouri Register. The decision is now final..

First Community Credit Union submitted an application for individuals who reside or work in the counties of Lincoln, Warren, Franklin, Washington, St. Francois, Ste. Genevieve, Pike, Montgomery, Gasconade and Crawford in the state of Missouri and the City of St. Louis. The application was published in the August 1, 2002 Missouri Register. The Director approved the application and his decision was published in the September 16, 2002 Missouri Register. On September 26, 2002 the MBA and a local bank located within the field of membership expansion area filed an appeal of the decision to the Credit Union Commission. The Commission must now handle the appeal.

Wireco Credit Union submitted an application for anyone who lives or works in Buchanan County and their family members. **Mizzou Credit Union** submitted an application for individuals who live or work in Cole County. These applications were published in the August 1, 2002 Missouri Register. The Director approved these applications and his decisions were published in the September 16, 2002 Missouri Register. The decisions are now final.

Farmland Industries Credit Union submitted an

application for current and retired employees, their immediate families and/or their heirs, administrators, executors, trustees or organizations or trusts participated in or comprised of such members of Farmland Industries, Inc., Cap Gemini Ernst & Young U.S. **Jefferson City Highway Credit Union** submitted an application for those persons living or working in Cole County, Missouri. These applications were published in the September 16, 2002 Missouri Register. The Director approved these applications and his decisions will be published in the November 1, 2002 Missouri Register. A fifteen day calendar day period for appeal must occur before the decisions are final.

FROM THE DIRECTOR

Personnel Changes

David A. Bohrer was recently appointed to the position of deputy director. He will assist the director in the management of the division's fiscal and personnel resources engaged in the examination of credit unions and clerical support services. Bohrer has been an employee of the division since 1977 advancing from financial examiner to chief examiner in 1984.

Cynthia Taylor was appointed to the position of chief examiner. Taylor's responsibilities include supervision of the examiner staff and overseeing the examination function. She will work to provide consistency in examination methods across the state. Taylor will report to the deputy director. She has been employed by the Division of Credit Unions since 1985.

2002 Credit Union Survey

The Survey will be mailed to credit unions later this month. We are interested in your input on our performance and what improvements and changes should be made. As in the past your response is confidential. Survey forms will be returned to the Department of Economic Development's Strategic Planning Office.

Credit Union Meetings with the Director

This year we will hold an afternoon and evening meeting at each location: St. Louis, Jefferson City, Kansas City and Springfield. Credit union officials from smaller credit unions are encouraged to attend the evening meetings. Your examiner, Chief Examiner and Director will be present to discuss risk focused examination procedures, changes to the allowance for loan loss, examination cycle time and results of the 2002 Credit Union Survey.

Dates, locations and time for the meetings will be announced in the next Newsletter.

Field of Membership Application for Expansion

A mock field of membership application has been prepared for use by credit unions preparing their application. Contact the Division of Credit Unions at (573) 751-3419 for a copy. We suggest credit unions complete a draft application for review by the Division before submitting the final application. The Commission must exempt groups larger than 3,000 from the limitation on groups, therefore ten copies of the application is required for groups of greater than 3,000 potential members. Contact the Division for answers to your questions while preparing your application.

John P. Smith

John P. Smith, Director